

**STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS
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**TITLE 12. MILITARY AND VETERANS AFFAIRS
DIVISION 2. DEPARTMENT OF VETERANS AFFAIRS
CHAPTER 6, SECTION 715. APPEALS TO THE BOARD**

**UPDATED RATIONALE FOR CHANGES
FOLLOWING 15 DAY REVIEW PERIOD**

Changes to the text

Several non-substantive changes were made to the text to correct inconsistent terms or remove duplicative language already contained in the statutes. The additions to the text are underlined, while text deleted are noted by ~~strikeout~~.

Changes to the ISOR

NECESSITY

Section 715: The purpose of these proposed regulations is to clarify how the Veterans Board will conduct the appeals process authorized by 12 MVC 86. While the statute provides the authority to appeal, it does not provide necessary detail that would allow a veteran to know how to file an appeal, and how the appeal will be administered by the California Veterans Board.

Subsection a): This subsection clarifies the decisions that may be appealed and who may hear the appeal being sought. While an appeal regarding the denial of a direct benefit authorized by the various statutes is fairly clear, there are many other “benefits” that are provided that could potentially be appealed (e.g., food service at a CA Veterans Home). This regulation clarifies the manner in which the Veterans Board will consider these types of appeals, and whether they will be accepted. The regulation is designed to ensure a cost-benefit calculation is applied to ensure there are no unintended negative consequences in overturning a decision by CalVet. ~~Deferral of Farm and Home Loan appeals is required by 12 MVC 86(b).~~

Subsection b): The statute authorizes the appeal process, but does not provide sufficient detail as to how the Veterans Board will administer the appeal, nor does it provide sufficient detail to allow a veteran to know how to file an appeal, including the information required to process the appeal. This subsection clarifies how the veteran must officially file the appeal, the immediate effect of the appeal, the types of appeals that the veteran may request, the notice the Board must give to participants, and the steps that the veteran may expect during the appeals process. The different types of appeals offer veterans a range of options for appellant review depending on the complexity of the issues under consideration. Many appeals do not require a full administrative hearing, and can be solved without the cost or time involved in a full

administrative hearing. The time limits imposed in subsection (2) are necessary in order to, for the one-year time limit, ensure that all rules and policies remain relevant to the appeal, and in the case of the 90-day time limit, ensure any appeal of a medical nature is heard while the diagnosis is considered valid while the appeal is being adjudicated.

The original Subsection c) was struck during the first 15 day review, but is contained here for historical purposes and to reduce confusion while reading changes from the original text.

Subsection c): This subsection clarifies the specific Board requirements and options available for an ~~administrative~~ appeal, including the notice requirements, recording, decisions that the Board may make, and the timeline for those decisions to be communicated. This allows veterans to know how and when the decision will be made and communicated to them. The statute lacks specific detail on how the Board will notify a veteran of the time and place of the hearing, how the Board may render decisions of a medical nature, and how an appeal will be handled if the information provided is not sufficient to allow the Board to develop a decision during the initial hearing. The first sentence in Subsection c)(3) was struck as it duplicates statutory language. The regulation concerning the location of the hearing is designed to accommodate the veteran appellant as much as possible, as many of the veterans have medical conditions that make travelling difficult. The regulation regarding recording the hearing is to ensure compliance with the Bagley-Keene Act, even though the hearings are not considered public meetings. The regulation regarding appeals of a medical nature is to ensure any decision will be compatible with medical services offered within the Veterans Homes. The 90-day time limit is designed to meet the spirit of 12 MVC 86, in the event that a quarterly Board meeting does not occur.